

# HOUSE BILL No. 1724

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-4; IC 4-6-12-8; IC 4-31-9-9; IC 6-1.1; IC 6-3; IC 15-2.1-2-15; IC 15-8-1-3; IC 15-9; IC 24-9-4-7.

**Synopsis:** Agriculture. Permits the enterprise zone board to designate certain areas as agricultural enterprise zones. Provides exemptions from property taxes and the adjusted gross income tax for agricultural processing facilities located in the zones. Provides that real and personal property located in a zone may be assessed for payment of property taxes committed to funding or paying bonded indebtedness or certain lease rentals. Establishes the department of agriculture. Provides that the commissioner of the department of agriculture is appointed by the governor. Terminates the lieutenant governor's duty to serve as the commissioner of agriculture. Transfers various duties and responsibilities of the department of commerce relating to the promotion of Indiana agriculture to the department of agriculture. Makes an appropriation.

**Effective:** July 1, 2005.

**Buck, Friend**

January 19, 2005, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1724

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-4-3-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. There is hereby created a state  
3 department to be known as the department of commerce. The  
4 lieutenant governor, by virtue of ~~his~~ **the lieutenant governor's** office,  
5 shall serve as director of the department. ~~and commissioner of~~  
6 ~~agriculture, and he~~ **The lieutenant governor** shall receive no  
7 additional salary ~~in these capacities. for serving as the director of the~~  
8 **department.**
- 9 SECTION 2. IC 4-4-3-8, AS AMENDED BY P.L.28-2004,  
10 SECTION 23, AND AS AMENDED BY P.L.73-2004, SECTION 1, IS  
11 CORRECTED AND AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The department shall develop  
13 and promote programs designed to make the best use of the resources  
14 of the state so as to assure a balanced economy and continuing  
15 economic growth for Indiana and for those purposes may do the  
16 following:  
17 (1) Cooperate with federal, state, and local governments and



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1 agencies in the coordination of programs to make the best use of  
2 the resources of the state.

3 (2) Receive and expend all funds, grants, gifts, and contributions  
4 of money, property, labor, interest accrued from loans made by  
5 the department, and other things of value from public and private  
6 sources, including grants from agencies and instrumentalities of  
7 the state and the federal government. The department:

8 (A) may accept federal grants for providing planning  
9 assistance, making grants, or providing other services or  
10 functions necessary to political subdivisions, planning  
11 commissions, or other public or private organizations;

12 (B) shall administer these grants in accordance with their  
13 terms; and

14 (C) may contract with political subdivisions, planning  
15 commissions, or other public or private organizations to carry  
16 out the purposes for which the grants were made.

17 (3) Direct that assistance, information, and advice regarding the  
18 duties and functions of the department be given the department by  
19 any officer, agent, or employee of the state. The head of any other  
20 state department or agency may assign one (1) or more of the  
21 department's or agency's employees to the department on a  
22 temporary basis, or may direct any division or agency under the  
23 department's or agency's supervision and control to make any  
24 special study or survey requested by the director.

25 (b) The department shall perform the following duties:

26 (1) Disseminate information concerning the industrial,  
27 commercial, governmental, educational, cultural, recreational,  
28 ~~agricultural~~, and other advantages of Indiana.

29 (2) Plan, direct, and conduct research activities.

30 (3) Develop and implement industrial development programs to  
31 encourage expansion of existing industrial, commercial, and  
32 business facilities within Indiana and to encourage new industrial,  
33 commercial, and business locations within Indiana.

34 (4) Assist businesses and industries in acquiring, improving, and  
35 developing overseas markets and encourage international plant  
36 locations within Indiana. The director, with the approval of the  
37 governor, may establish foreign offices to assist in this function.

38 (5) Promote the growth of minority business enterprises by doing  
39 the following:

40 (A) Mobilizing and coordinating the activities, resources, and  
41 efforts of governmental and private agencies, businesses, trade  
42 associations, institutions, and individuals.

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(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion, establishment of new businesses, or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(6) Assist in community economic development planning and the implementation of programs designed to further this development.

(7) Assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

~~(8) Assist in the promotion and marketing of Indiana's agricultural products; and provide staff assistance to the director in fulfilling the director's responsibilities as commissioner of agriculture.~~

~~(9)~~ (8) Perform the following energy related functions:

(A) Assist in the development and promotion of alternative energy resources, including Indiana coal, oil shale, hydropower, solar, wind, geothermal, and biomass resources.

(B) Encourage the conservation and efficient use of energy, including energy use in commercial, industrial, residential, governmental, agricultural, transportation, recreational, and educational sectors.

(C) Assist in energy emergency preparedness.

(D) ~~Not later than January 1, 1994,~~ Establish:

(i) specific goals for increased energy efficiency in the operations of state government and for the use of alternative fuels in vehicles owned by the state; and

(ii) guidelines for achieving the goals established under item (i).

(E) Establish procedures for state agencies to use in reporting to the department on energy issues.

(F) Carry out studies, research projects, and other activities required to:

(i) assess the nature and extent of energy resources required to meet the needs of the state, including coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable energy, and other energy resources;

(ii) promote cooperation among government, utilities, industry, institutions of higher education, consumers, and all other parties interested in energy and recycling market development issues; and

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(iii) promote the dissemination of information concerning energy and recycling market development issues.

~~(10)~~ (9) Implement any federal program delegated to the state to effectuate the purposes of this chapter.

~~(11)~~ (10) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

~~(12)~~ Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.

~~(13)~~ (11) Develop and promote markets for the following recyclable items:

(A) Aluminum containers.

(B) Corrugated paper.

(C) Glass containers.

(D) Magazines.

(E) Steel containers.

(F) Newspapers.

(G) Office waste paper.

(H) Plastic containers.

(I) Foam polystyrene packaging.

(J) Containers for carbonated or malt beverages that are primarily made of a combination of steel and aluminum.

~~(14)~~ (12) Produce an annual recycled products guide and at least one (1) time each year distribute the guide to the following:

(A) State agencies.

(B) The judicial department of state government.

(C) The legislative department of state government.

(D) State educational institutions (as defined in IC 20-12-0.5-1).

(E) Political subdivisions (as defined in IC 36-1-2-13).

(F) Bodies corporate and politic created by statute.

A recycled products guide distributed under this subdivision must include a description of supplies and other products that contain recycled material and information concerning the availability of the supplies and products.

~~(15)~~ (13) Beginning July 1, 2005, the department shall identify,

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*promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the department using funds appropriated under IC 4-4-3-23(e). The department shall adopt rules under IC 4-22-2 governing certification procedures and counseling requirements for nonprofit home ownership counselors. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the department in implementing this subdivision.*

(c) The department shall submit a report *in an electronic format under IC 5-14-6* to the general assembly before October 1 of each year concerning the availability of and location of markets for recycled products in Indiana. The report must include the following:

(1) A priority listing of recyclable materials to be targeted for market development. The listing must be based on an examination of the need and opportunities for the marketing of the following:

- (A) Paper.
- (B) Glass.
- (C) Aluminum containers.
- (D) Steel containers.
- (E) Bi-metal containers.
- (F) Glass containers.
- (G) Plastic containers.
- (H) Landscape waste.
- (I) Construction materials.
- (J) Waste oil.
- (K) Waste tires.
- (L) Coal combustion wastes.
- (M) Other materials.

(2) A presentation of a market development strategy that:

- (A) considers the specific material marketing needs of Indiana; and
- (B) makes recommendations for legislative action.

(3) An analysis that examines the cost and effectiveness of future market development options.

SECTION 3. IC 4-4-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under ~~section 8(b)(15)~~ **section 8(b)(13)** of this chapter. The account is administered by the department.

(b) The home ownership education account consists of fees

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collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(e) Money in the account may be spent only after appropriation by the general assembly.

SECTION 4. IC 4-4-6.1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) As used in this chapter, "zone business" means any entity that accesses at least one (1) tax credit or exemption incentive available under this chapter, IC 6-1.1-20.8, or IC 6-3-3-10.

(b) The term does not include a business located in an agricultural enterprise zone that receives an exemption incentive under IC 6-1.1-10-44 or IC 6-3-2-20.

SECTION 5. IC 4-4-6.1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter, "development plan" means a written plan that addresses the criteria set forth in section 3.5 of this chapter and includes all the following:

(1) A map of the proposed agricultural enterprise zone that indicates the geographic boundaries, the total area, and the present use and conditions generally of the land and structures within those boundaries.

(2) Evidence of community support and commitment.

(3) A description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, and identify job training opportunities.

(4) A description of current social, economic, and demographic characteristics of the proposed agricultural enterprise zone and improvements in education, health, human services, public safety, and employment that are anticipated if the agricultural enterprise zone is created.

(5) Any other information required by the board.

SECTION 6. IC 4-4-6.1-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.6. As used in this chapter, "agricultural processing facility" means:

(1) the land on which a building or complex of buildings described in subdivision (2) is situated; and

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**(2) a building or complex of buildings that is used, or that is designed and constructed to be used, to:**

**(A) transform agricultural products into goods that are used for intermediate or final consumption, including goods for nonfood use; or**

**(B) package, sort, or grade agricultural products.**

SECTION 7. IC 4-4-6.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation which this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all of its incentives, as contained in the summary required under section 2.5 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all of its incentives.

(B) Use all of its incentives, except for the amount of registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from an urban enterprise association, to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 3 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend these funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the

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1 designation of locations as industrial recovery sites and the  
 2 availability of the credit provided by IC 6-1.1-20.7 to persons  
 3 owning inventory located on an industrial recovery site.

4 (10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11  
 5 concerning the disqualification of persons from claiming credits  
 6 provided by those chapters in appropriate cases.

7 (11) To make determinations under IC 6-3.1-11.5 concerning the  
 8 designation of locations as military base recovery sites and the  
 9 availability of the credit provided by IC 6-3.1-11.5 to persons  
 10 making qualified investments in military base recovery sites.

11 (12) To make determinations under IC 6-3.1-11.5 concerning the  
 12 disqualification of persons from claiming the credit provided by  
 13 IC 6-3.1-11.5 in appropriate cases.

14 **(13) To do the following concerning agricultural enterprise**  
 15 **zones:**

16 **(A) Review and approve or reject all applications for**  
 17 **agricultural enterprise zone designation, according to the**  
 18 **criteria for designation set forth in this chapter.**

19 **(B) Approve or reject the geographic boundaries and the**  
 20 **total area of a proposed agricultural enterprise zone as**  
 21 **submitted in the application.**

22 (b) In addition to a registration fee paid under subsection (a)(4),  
 23 each zone business that receives a credit under this chapter shall assist  
 24 the zone urban enterprise association created under section 4 of this  
 25 chapter in an amount determined by the legislative body of the  
 26 municipality in which the zone is located. If a zone business does not  
 27 assist an urban enterprise association, the legislative body of the  
 28 municipality in which the zone is located may pass an ordinance  
 29 disqualifying a zone business from eligibility for all credits or  
 30 incentives available to zone businesses. If a legislative body  
 31 disqualifies a zone business under this subsection, the legislative body  
 32 shall notify the board, the department of local government finance, and  
 33 the department of state revenue in writing within thirty (30) days of the  
 34 passage of the ordinance disqualifying the zone business.  
 35 Disqualification of a zone business under this section is effective  
 36 beginning with the taxable year in which the ordinance disqualifying  
 37 the zone business is passed.

38 SECTION 8. IC 4-4-6.1-3.5 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 40 1, 2005]: **Sec. 3.5. (a) After approval by resolution of the legislative**  
 41 **body, the executive of a municipality that is not an included town**  
 42 **under IC 36-3-1-7 may submit an application to the enterprise zone**

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board to have an agricultural enterprise zone designated within the municipality. If an application is denied, the executive may submit a new application. The board shall provide application procedures by rule.

(b) The board may designate up to ten (10) agricultural enterprise zones. A municipality may not contain more than one (1) agricultural enterprise zone. An agricultural enterprise zone must have a continuous boundary.

(c) The board shall evaluate an agricultural enterprise zone application if the board finds that the proposed zone meets the following threshold criteria:

(1) Either of the following conditions exists in the proposed zone:

(A) At least twenty-five percent (25%) of the households in the proposed zone are below the poverty level, as established by the most recent United States census.

(B) The average rate of unemployment in the proposed zone for the most recent eighteen (18) month period for which data is available is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) The territory of the proposed zone is entirely within the applicant municipality and is suitable for the development of at least one (1) agricultural processing facility.

(3) The municipality contains an enterprise zone established under this chapter and an urban enterprise association that meets the requirements of section 4 of this chapter has been appointed.

(d) If an applicant meets the threshold criteria set forth in subsection (c), the board shall evaluate the application, arrive at a decision, and either designate an agricultural enterprise zone or reject the application based on the following factors:

(1) The level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities, and the expression of need for an agricultural enterprise zone above the threshold criteria set forth in subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone and the demonstration of a willingness among zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the

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impediments to development in the zone area where necessary, including the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The capacity of the urban enterprise association to carry out the purposes of this chapter.

(e) An agricultural enterprise zone expires fifteen (15) years after the date the zone is designated by the board.

(f) The board may not approve the enlargement of an agricultural enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in subsection (c)(1).

(g) The board may not do the following:

(1) Consider an application for agricultural enterprise zone designation that is submitted after September 30, 2006.

(2) Designate an agricultural enterprise zone before January 1, 2006, or after December 31, 2006.

SECTION 9. IC 4-4-6.1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) A business that substantially reduces or ceases an operation located in Indiana and outside an agricultural enterprise zone (referred to as a nonzone operation) in order to relocate in an agricultural enterprise zone is disqualified from benefits or incentives available to agricultural enterprise zone businesses. Determinations under this section shall be made by a hearing panel composed of the chair of the board or the chair's designee, the commissioner of the department of state revenue or the commissioner's designee, and the commissioner of the department of local government finance or the commissioner's designee. The panel, following an evidentiary hearing held after the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order must be based on the following criteria and subsection (b):

(1) A site specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time employees or

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part-time employees shall be considered a business operation.

(2) With respect to a nonzone operation, any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nonzone operation to the zone, as compared with the twelve (12) months before that twelve (12) months, shall be considered a substantial reduction for purposes of this subsection:

(A) A reduction in the average number of full-time or part-time employees by the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to agricultural enterprise zone businesses if each of the following conditions is met:

(1) The business relocates its nonzone operation for any of the following reasons:

(A) The lease on property necessary for the nonzone operation has been involuntarily lost through no fault of the business.

(B) The space available at the location of the nonzone operation cannot accommodate planned expansion needed by the business.

(C) The building for the nonzone operation has been certified as uninhabitable by a state or local building authority, and the renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, or construction of a facility in the zone, as certified by three (3) independent estimates.

(D) The building for the nonzone operation has been totally destroyed through no fault of the business, and the renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2)

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times the costs of purchase, renovation, or construction of a facility in the zone, as certified by three (3) independent estimates.

(E) A planned expansion needed by the business is not feasible at the nonzone location because the renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, or construction of a facility in the zone, as certified by three (3) independent estimates.

(2) The business has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonzone operation without the consent of the employees.

(c) The hearing panel shall deliver to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and those persons are parties for purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, not later than ten (10) days after the party's receipt of the recommended order, file written objections with the board. The board shall set the objections for oral argument and give notice to the parties. A party, at its own expense, may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument must be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, amend or modify the recommendations, or make an order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

SECTION 10. IC 4-4-6.1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The board shall prescribe:

(1) the form of the application for an agricultural enterprise zone designation; and

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(2) the form required to collect information from an agricultural enterprise zone business under subsection (b).

(b) Before April 1 of each year, an agricultural enterprise zone business shall report the following to the board:

(1) The number of employees who are employed in Indiana by the business.

(2) The compensation (including benefits) paid to the employees of the business in Indiana.

(3) The number of employees who are employed in an agricultural enterprise zone by the business.

(4) The number of employees who were employed by the business in the territory of the agricultural enterprise zone before the designation of the agricultural enterprise zone.

(5) The number of employees who were added by the business following the designation of the agricultural enterprise zone.

(6) The compensation (including benefits) paid to the employees described in subdivision (4).

(7) The compensation (including benefits) paid to the employees described in subdivision (5).

(8) The total Indiana income of the business.

(9) The income of the business derived from sources inside an agricultural enterprise zone.

(10) The amount of the:

(A) facility improvements;

(B) equipment and machinery upgrades, repairs, or retrofits; or

(C) other direct business related investments, including training;

made by the business in an agricultural enterprise zone in the preceding calendar year.

(11) The total amount of the:

(A) facility improvements;

(B) equipment and machinery upgrades, repairs, or retrofits; or

(C) other direct business related investments, including training;

made by the business in an agricultural enterprise zone since the date of the agricultural enterprise zone designation.

An agricultural enterprise zone business shall submit to the board income tax returns, assessment records, personal property tax returns, and any other supporting documentation requested by the board. The board shall report the failure of an agricultural

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enterprise zone business to comply with this section to the department of state revenue.

(c) The board shall contract with a state university to prepare an annual report to the legislative council on the economic effects of this chapter in each agricultural enterprise zone. The report must be in electronic format under IC 5-14-6 and must include the following information:

(1) The number of new jobs created.

(2) The percentage change in assessed value.

(3) The average wage of new jobs created.

SECTION 11. IC 4-4-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "department" refers to the department of ~~commerce~~ **agriculture established by IC 15-9-2-1.**

SECTION 12. IC 4-6-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The unit shall cooperate with the department of commerce in the development and implementation of the home ownership education programs established under ~~IC 4-4-3-8(b)(15)~~ **IC 4-4-3-8(b)(13).**

SECTION 13. IC 4-31-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Before January 15 and July 15 of each year, each permit holder that operates satellite facilities shall forward to the auditor of state an amount equal to one-half of one percent (0.5%) of the total amount of money wagered at that permit holder's satellite facilities during the six (6) month period ending on the last day of the preceding month. The auditor of state shall distribute amounts received under this section as follows:

(1) Fifty percent (50%) of the amounts received shall be deposited in the livestock industry promotion and development fund established by ~~IC 4-4-3-2~~ **IC 15-9-4-2.**

(2) Fifty percent (50%) of the amounts received shall be distributed to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(b) Payments required by this section shall be made from amounts withheld by the permit holder under section 1 of this chapter.

SECTION 14. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 44. (a) Except as provided in this section, the following are exempt from property taxation under this article if the taxpayer qualifies under subsection (b):**

(1) **An agricultural processing facility (as defined in IC 4-4-6.1-1.6) that is located inside an agricultural enterprise**

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1 zone.

2 (2) The business personal property (as defined in  
3 IC 6-1.1-21-2) of an agricultural processing facility described  
4 in subdivision (1).

5 (b) To receive an exemption under subsection (a), a taxpayer  
6 must do either of the following:

7 (1) Invest at least one million dollars (\$1,000,000) in the  
8 taxpayer's agricultural processing facility and create at least  
9 five (5) new jobs, in the case of an agricultural processing  
10 facility that relocates inside an agricultural enterprise zone.

11 (2) Increase the number of full-time employees working at the  
12 taxpayer's agricultural processing facility by at least ten  
13 percent (10%) after the date of the agricultural enterprise  
14 zone designation, in the case of an agricultural processing  
15 facility located inside an agricultural enterprise zone as of the  
16 date of the zone's designation.

17 (c) A taxpayer is not eligible for an exemption under this section  
18 if the taxpayer is delinquent in the payment of an ad valorem  
19 property tax assessed and imposed under this article.

20 (d) Notwithstanding subsection (a), the real property and the  
21 business personal property of an agricultural processing facility  
22 located in an agricultural enterprise zone shall be assessed for the  
23 payment of ad valorem property tax levies committed to pay or  
24 fund either:

25 (1) bonded indebtedness; or

26 (2) lease rentals under a lease with an original term of at least  
27 five (5) years.

28 (e) A taxpayer is eligible for an exemption under this section  
29 until the department of local government finance, with the  
30 assistance of the department of state revenue, determines that the  
31 total state and local tax revenue foregone as a result of all  
32 exemptions and deductions granted to the taxpayer under the  
33 agricultural enterprise zone program reaches ten million dollars  
34 (\$10,000,000).

35 (f) During the last three (3) years that the taxpayer is eligible for  
36 an exemption under this section, the exemption shall be reduced by  
37 the following percentages:

38 (1) Twenty-five percent (25%) for the year that is two (2)  
39 years before the final year of designation as an agricultural  
40 enterprise zone.

41 (2) Fifty percent (50%) for the year that immediately  
42 precedes the final year of designation as an agricultural

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enterprise zone.

(3) Seventy-five percent (75%) for the final year of designation as an agricultural enterprise zone.

(g) An agricultural processing facility located inside an agricultural enterprise zone that receives an exemption under this section may not receive a tax incentive or benefit provided to an enterprise zone business under the following statutes:

(1) IC 6-1.1-20.8.

(2) IC 6-3-3-10.

(3) IC 6-3.1-7.

(4) IC 6-3.1-9.

(5) IC 6-3.1-10.

(h) An exemption under this section expires when the designation of the agricultural enterprise zone expires.

SECTION 15. IC 6-1.1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Subject to subsections (e) and (f), an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms prescribed by the department of local government finance. Except as provided in sections 1, 3.5, ~~and 4~~, **and 4.5** of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) For the year that ends on the assessment date of the property, identification of:

(A) each part of the property used or occupied; and

(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

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(6) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the township assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall direct the township assessor of the township in which the real property is located to:

(1) properly assess the real property; and

(2) notify the county assessor and county auditor of the proper assessment.

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

SECTION 16. IC 6-1.1-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. (a) An owner of an agricultural processing facility located inside an agricultural enterprise zone who wishes to obtain an exemption under IC 6-1.1-10-44 must file a certified application in duplicate with the county assessor of the county in which the property is located. The application must be filed before February 16 on forms prescribed by the department of local government finance.**

**(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.**

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1 (c) An exemption application required under this section must  
2 contain the following information:

3 (1) A description of the property claimed as exempt, in  
4 sufficient detail to enable identification.

5 (2) A statement showing the ownership of the property.

6 (3) The grounds for claiming the exemption.

7 (4) The full name and address of the applicant.

8 (5) Any additional information the department of local  
9 government finance requires.

10 (d) The owner of an agricultural processing facility located  
11 inside an agricultural enterprise zone is not required to file an  
12 additional application if the owner remains eligible for an  
13 agricultural enterprise zone tax exemption under IC 6-1.1-10-44.

14 (e) The department of local government finance may adopt rules  
15 necessary to implement this section.

16 SECTION 17. IC 6-3-1-3.5 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. When used in this  
18 article, the term "adjusted gross income" shall mean the following:

19 (a) In the case of all individuals, "adjusted gross income" (as  
20 defined in Section 62 of the Internal Revenue Code), modified as  
21 follows:

22 (1) Subtract income that is exempt from taxation under this article  
23 by the Constitution and statutes of the United States.

24 (2) Add an amount equal to any deduction or deductions allowed  
25 or allowable pursuant to Section 62 of the Internal Revenue Code  
26 for taxes based on or measured by income and levied at the state  
27 level by any state of the United States.

28 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
29 joint return filed by a husband and wife, subtract for each spouse  
30 one thousand dollars (\$1,000).

31 (4) Subtract one thousand dollars (\$1,000) for:

32 (A) each of the exemptions provided by Section 151(c) of the  
33 Internal Revenue Code;

34 (B) each additional amount allowable under Section 63(f) of  
35 the Internal Revenue Code; and

36 (C) the spouse of the taxpayer if a separate return is made by  
37 the taxpayer and if the spouse, for the calendar year in which  
38 the taxable year of the taxpayer begins, has no gross income  
39 and is not the dependent of another taxpayer.

40 (5) Subtract:

41 (A) one thousand five hundred dollars (\$1,500) for each of the  
42 exemptions allowed under Section 151(c)(1)(B) of the Internal

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- 1 Revenue Code for taxable years beginning after December 31,
- 2 1996; and
- 3 (B) five hundred dollars (\$500) for each additional amount
- 4 allowable under Section 63(f)(1) of the Internal Revenue Code
- 5 if the adjusted gross income of the taxpayer, or the taxpayer
- 6 and the taxpayer's spouse in the case of a joint return, is less
- 7 than forty thousand dollars (\$40,000).
- 8 This amount is in addition to the amount subtracted under
- 9 subdivision (4).
- 10 (6) Subtract an amount equal to the lesser of:
- 11 (A) that part of the individual's adjusted gross income (as
- 12 defined in Section 62 of the Internal Revenue Code) for that
- 13 taxable year that is subject to a tax that is imposed by a
- 14 political subdivision of another state and that is imposed on or
- 15 measured by income; or
- 16 (B) two thousand dollars (\$2,000).
- 17 (7) Add an amount equal to the total capital gain portion of a
- 18 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 19 Internal Revenue Code) if the lump sum distribution is received
- 20 by the individual during the taxable year and if the capital gain
- 21 portion of the distribution is taxed in the manner provided in
- 22 Section 402 of the Internal Revenue Code.
- 23 (8) Subtract any amounts included in federal adjusted gross
- 24 income under Section 111 of the Internal Revenue Code as a
- 25 recovery of items previously deducted as an itemized deduction
- 26 from adjusted gross income.
- 27 (9) Subtract any amounts included in federal adjusted gross
- 28 income under the Internal Revenue Code which amounts were
- 29 received by the individual as supplemental railroad retirement
- 30 annuities under 45 U.S.C. 231 and which are not deductible under
- 31 subdivision (1).
- 32 (10) Add an amount equal to the deduction allowed under Section
- 33 221 of the Internal Revenue Code for married couples filing joint
- 34 returns if the taxable year began before January 1, 1987.
- 35 (11) Add an amount equal to the interest excluded from federal
- 36 gross income by the individual for the taxable year under Section
- 37 128 of the Internal Revenue Code if the taxable year began before
- 38 January 1, 1985.
- 39 (12) Subtract an amount equal to the amount of federal Social
- 40 Security and Railroad Retirement benefits included in a taxpayer's
- 41 federal gross income by Section 86 of the Internal Revenue Code.
- 42 (13) In the case of a nonresident taxpayer or a resident taxpayer

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residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

**(21) Subtract income that is:**

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**(A) exempt under IC 6-3-2-20 from taxation under this article; and**

**(B) included in the individual's federal adjusted gross income.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

**(7) Subtract income that is:**

**(A) exempt under IC 6-3-2-20 from taxation under this article; and**

**(B) included in the corporation's taxable income under the Internal Revenue Code.**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

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(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

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(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP ~~THREE~~ **FOUR** amount and two thousand five hundred dollars (\$2,500).

SECTION 18. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. (a) This section applies only to a taxpayer that operates an agricultural processing facility (as defined in**

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1 IC 4-4-6.1-1.6) inside an agricultural enterprise zone.

2 (b) Subject to section 22 of this chapter, income derived from  
3 sources inside an agricultural enterprise zone (as determined  
4 under section 21 of this chapter) is exempt from taxation under  
5 IC 6-3-1 through IC 6-3-7 if the taxpayer does either of the  
6 following:

7 (1) Invests at least one million dollars (\$1,000,000) in the  
8 taxpayer's agricultural processing facility and creates at least  
9 five (5) new jobs, in the case of an agricultural processing  
10 facility that relocates inside an agricultural enterprise zone.

11 (2) Increases the number of full-time employees working at  
12 the taxpayer's agricultural processing facility by at least ten  
13 percent (10%) after the date of the agricultural enterprise  
14 zone designation, in the case of an agricultural processing  
15 facility located inside an agricultural enterprise zone as of the  
16 date of the zone's designation.

17 (c) An exemption allowed under this section expires when the  
18 designation of the agricultural enterprise zone expires.

19 (d) The department may adopt rules and prescribe forms  
20 necessary to implement this section.

21 SECTION 19. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2005]: Sec. 21. (a) As used in this section, "agricultural  
24 enterprise zone" means an agricultural enterprise zone created  
25 under IC 4-4-6.1-3.5.

26 (b) As used in this section, "income derived from sources inside  
27 an agricultural enterprise zone" means:

28 (1) income from real or tangible personal property located  
29 inside an agricultural enterprise zone;

30 (2) income from doing business from an agricultural  
31 processing facility located inside an agricultural enterprise  
32 zone; or

33 (3) income from stocks, bonds, notes, bank deposits, patents,  
34 copyrights, secret processes and formulas, goodwill,  
35 trademarks, trade brands, franchises, and other intangible  
36 personal property having a situs inside an agricultural  
37 enterprise zone.

38 However, for nonbusiness income described in subsection (h), only  
39 the income that is allocated to an agricultural enterprise zone  
40 under subsections (i) through (l) is considered derived from sources  
41 inside an agricultural enterprise zone. For business income, only  
42 the income that is apportioned to an agricultural enterprise zone

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under subsection (c) is considered derived from sources inside an agricultural enterprise zone.

(c) If business income derived from sources inside an agricultural enterprise zone cannot be separated from the business income derived from sources outside the agricultural enterprise zone, the business income derived from sources inside the agricultural enterprise zone is determined by multiplying the business income derived from sources both inside and outside the agricultural enterprise zone by a fraction. The numerator of the fraction is the property factor described in subsection (d), plus the payroll factor described in subsection (e), plus the sales factor described in subsection (f). The denominator of the fraction is three (3).

(d) The property factor is a fraction. The numerator of the fraction is the average value of the taxpayer's real property and tangible personal property owned or rented and used in an agricultural enterprise zone during the taxable year. The denominator of the fraction is the average value of all the taxpayer's real property and tangible personal property owned or rented and used during the taxable year. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average value of property is determined by averaging the values at the beginning and end of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(e) The payroll factor is a fraction. The numerator of the fraction is the total amount paid in an agricultural enterprise zone during the taxable year by the taxpayer for compensation. The denominator of the fraction is the total compensation paid everywhere during the taxable year by the taxpayer. Compensation is paid in an agricultural enterprise zone if:

- (1) the individual's service is performed entirely within the agricultural enterprise zone;
- (2) the individual's service is performed both inside and outside the agricultural enterprise zone, but the service performed outside the agricultural enterprise zone is incidental to the individual's service inside the agricultural enterprise zone; or

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(3) some of the service is performed inside the agricultural enterprise zone and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is inside the agricultural enterprise zone; or

(B) there is no base of operations or place from which the service is directed or controlled, but the individual is a resident of the agricultural enterprise zone.

(f) The sales factor is a fraction. The numerator of the fraction is the total sales of the taxpayer inside an agricultural enterprise zone during the taxable year. The denominator of the fraction is the total sales of the taxpayer everywhere during the taxable year. Sales of tangible personal property are in an agricultural enterprise zone if:

(1) the property is delivered or shipped to a purchaser, other than the United States government, inside the agricultural enterprise zone, regardless of the f.o.b. point or other conditions of the sale; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or another place of storage inside the agricultural enterprise zone and either the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser.

(g) Sales, other than sales of tangible personal property, are inside an agricultural enterprise zone if:

(1) the income producing activity is performed inside the agricultural enterprise zone; or

(2) the income producing activity is performed both inside and outside the agricultural enterprise zone, and a greater proportion of the income producing activity is performed inside the agricultural enterprise zone than outside the agricultural enterprise zone, based on costs of performance.

(h) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, are allocated as provided in subsections (i) through (l).

(i) Net rents and royalties from:

(1) real property located inside an agricultural enterprise zone are allocable to the agricultural enterprise zone; and

(2) tangible personal property are allocated to an agricultural enterprise zone to the extent that the property is used inside the agricultural enterprise zone.

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The extent of use of tangible personal property inside an agricultural enterprise zone is determined by multiplying the rents and royalties by a fraction. The numerator of the fraction is the number of days of physical location of the property inside the agricultural enterprise zone during the rental or royalty period in the taxable year. The denominator of the fraction is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or is not ascertainable by the taxpayer, tangible personal property is used where the royalty payor obtained possession of the property.

(j) Capital gains and losses from sales of:

- (1) real property located inside an agricultural enterprise zone are allocable to the agricultural enterprise zone;
- (2) tangible personal property are allocable to an agricultural enterprise zone if the property had a situs inside the agricultural enterprise zone at the time of the sale; and
- (3) intangible personal property are allocable to an agricultural enterprise zone if the taxpayer's commercial domicile is inside the agricultural enterprise zone.

(k) Interest and dividends are allocable to an agricultural enterprise zone if the taxpayer's commercial domicile is inside the agricultural enterprise zone.

(l) Patent and copyright royalties are allocable to an agricultural enterprise zone to the extent that the patent or copyright is used by the taxpayer inside the agricultural enterprise zone. A patent is used inside an agricultural enterprise zone to the extent that it is used in production, fabrication, manufacturing, or other processing inside the agricultural enterprise zone or to the extent that a patented product is produced inside the agricultural enterprise zone. If the basis of receipts from patent royalties does not permit allocation to agricultural enterprise zones or if the accounting procedures do not reflect location of use, the patent is used at the location of the taxpayer's commercial domicile. A copyright is used inside an agricultural enterprise zone to the extent that printing or other publication originates inside the agricultural enterprise zone. If the basis of receipts from copyright royalties does not permit allocation to agricultural enterprise zones or if the accounting procedures do not reflect location of use, the copyright is used at the location of the taxpayer's commercial domicile.

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(m) If the allocation and apportionment provisions of this section do not fairly represent the taxpayer's income derived from sources inside an agricultural enterprise zone, the taxpayer may petition for or the department may require, with respect to all or any part of the taxpayer's business activity:

(1) a separate accounting;

(2) the exclusion of any one (1) or more of the factors listed in this section;

(3) the inclusion of one (1) or more additional factors that will fairly represent the taxpayer's income derived from sources inside the agricultural enterprise zone; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(n) In the case of at least two (2) organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources inside an agricultural enterprise zone among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources inside the agricultural enterprise zone by various taxpayers.

(o) A taxpayer that:

(1) does not own, rent, or lease real property outside an agricultural enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside an agricultural enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

SECTION 20. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) During the last three (3) years that the taxpayer is eligible for an exemption under section 20 of this chapter, the exemption shall be reduced by the following percentages:

(1) Twenty-five percent (25%) for the year that is two (2) years before the final year of designation as an agricultural enterprise zone.

(2) Fifty percent (50%) for the year that immediately precedes the final year of designation as an agricultural enterprise zone.

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(3) Seventy-five percent (75%) for the final year of designation as an agricultural enterprise zone.

(b) A taxpayer is not eligible for the exemption described in section 20 of this chapter if the taxpayer is delinquent in the payment of a listed tax under IC 6-8.1.

(c) A taxpayer is eligible for an exemption under section 20 of this chapter until the department, with the assistance of the department of local government finance, determines that the total state and local tax revenue foregone as a result of all exemptions and deductions granted to the taxpayer under the agricultural enterprise zone program reaches ten million dollars (\$10,000,000).

(d) A taxpayer that receives an income tax exemption under section 20 of this chapter may not receive a tax incentive or benefit provided to an enterprise zone business under the following statutes:

(1) IC 6-1.1-20.8.

(2) IC 6-3-3-10.

(3) IC 6-3.1-7.

(4) IC 6-3.1-9.

(5) IC 6-3.1-10.

(e) The department shall deny an exemption under section 20 of this chapter to a taxpayer that fails to comply with the reporting requirements of IC 4-4-6.1-9.

SECTION 21. IC 15-2.1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. "Domestic animal" means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, emus, or other bird;

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, avian, camelid, cervidae, or bison species; or

(3) an aquatic animal that may be the subject of aquaculture (as defined in ~~IC 4-4-3.8-1~~; **IC 15-9-1-2**).

SECTION 22. IC 15-8-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Commissioner" refers to the ~~lieutenant governor, serving as the~~ commissioner of agriculture ~~under IC 4-4-3-2~~; **appointed under IC 15-9-3-1**.

SECTION 23. IC 15-9 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

## **ARTICLE 9. DEPARTMENT OF AGRICULTURE**

### **Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this**

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1 article.

2 Sec. 2. "Aquaculture" means a form of agriculture that is the  
3 controlled cultivation and harvest of aquatic plants and animals.

4 Sec. 3. "Commissioner" means the commissioner of the  
5 department.

6 Sec. 4. "Department" refers to the department of agriculture  
7 established by IC 15-9-2-1.

8 Sec. 5. "Livestock" includes but is not limited to the following:

9 (1) Beef cattle, dairy cattle, and other animals of the bovine  
10 species.

11 (2) Swine and other animals of the porcine species.

12 (3) Sheep and other members of the ovine species.

13 (4) Horses, mules, burros, asses, and other animals of the  
14 equine species.

15 (5) Goats and other members of the caprine species.

16 (6) Poultry and other birds of the avian species.

17 (7) Ostriches, rhea, emus, and other members of the ratite  
18 species.

19 (8) Camels, llamas, and other members of the camelid species.

20 (9) Farm raised deer, elk, moose, and other members of the  
21 cervidae species.

22 (10) Bison.

23 (11) Aquatic animals that are the subject of aquaculture.

24 (12) Rabbits.

25 Chapter 2. Department of Agriculture Established

26 Sec. 1. The department of agriculture is established.

27 Sec. 2. The department shall develop and promote programs  
28 designed to make the best use of the agricultural resources of  
29 Indiana and for that purpose may do the following:

30 (1) Cooperate with federal, state, and local governments and  
31 agencies to coordinate programs to make the best use of the  
32 agricultural resources of Indiana.

33 (2) Receive and expend all funds, grants, gifts, and  
34 contributions of money, property, labor, interest accrued  
35 from loans made by the department, and other things of value  
36 from public and private sources, including grants from  
37 agencies and instrumentalities of the state and the federal  
38 government. The department:

39 (A) may accept federal grants for providing planning  
40 assistance, making grants, or providing other services or  
41 functions necessary to political subdivisions, planning  
42 commissions, or other public or private organizations;

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(B) shall administer these grants in accordance with their terms; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

**Sec. 3. The department shall:**

(1) disseminate information concerning the agricultural advantages of Indiana;

(2) assist in the promotion and marketing of Indiana's agricultural products, and provide staff assistance to the commissioner in fulfilling the commissioner's responsibilities;

(3) assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22; and

(4) perform any other duty assigned by statute to the department.

**Sec. 4. (a) If a statute or rule authorizes an appeal from or action against:**

(1) the commissioner;

(2) the office of the commissioner of agriculture; or

(3) the department of commerce with respect to the department of commerce's responsibilities relating to the promotion of Indiana agriculture;

the appeal or action may be taken from or brought against the department.

**(b) A rule adopted before July 1, 2005, by:**

(1) the lieutenant governor in the lieutenant governor's capacity as the commissioner of agriculture;

(2) the office of the commissioner of agriculture; or

(3) the department of commerce with respect to the department of commerce's responsibilities relating to the promotion of Indiana agriculture;

is considered to be a rule adopted by the department of agriculture.

**Sec. 5. The department may adopt rules under IC 4-22-2 to carry out this article.**

**Chapter 3. Office of the Commissioner**

**Sec. 1. The office of commissioner of the department is created. The governor shall appoint the commissioner, who serves at the pleasure of the governor. The commissioner is the executive and chief administrative officer of the department.**

**Sec. 2. The commissioner is entitled to compensation in an amount to be fixed by the Indiana department of administration with the approval of the governor.**

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1        **Sec. 3. The commissioner may organize the department in such**  
 2        **a manner as will best promote efficiency of administration in**  
 3        **compliance with this article.**

4        **Chapter 4. Promotion of Livestock Shows**

5        **Sec. 1. The department shall aid, encourage, foster, and promote**  
 6        **the development and improvement of the livestock industry**  
 7        **throughout Indiana.**

8        **Sec. 2. (a) The livestock industry promotion and development**  
 9        **fund (referred to as the fund in this chapter) is established as a**  
 10       **dedicated fund to be administered by the department.**

11       **(b) The money in the fund must be spent by the department:**

12       **(1) exclusively for the purposes described in this chapter,**  
 13       **including administrative expenses; and**

14       **(2) throughout Indiana.**

15       **(c) Money in the fund does not revert to the state general fund**  
 16       **at the end of a state fiscal year. However, if the fund is abolished,**  
 17       **its contents revert to the state general fund.**

18       **(d) Money in the fund is annually appropriated to the**  
 19       **department for use by the department in carrying out this chapter.**

20       **Sec. 3. The department may make grants from the fund to**  
 21       **associations or organizations for the following purposes:**

22       **(1) To conduct or support livestock industry shows, sales,**  
 23       **expositions, conventions, or similar events throughout Indiana**  
 24       **consistent with the purposes of this chapter.**

25       **(2) To support expanding markets for Indiana livestock**  
 26       **producers by encouraging the development of business and**  
 27       **industry related to livestock production, processing, and**  
 28       **distribution.**

29       **Sec. 4. An association or organization may not qualify for or be**  
 30       **eligible to receive any part of the fund to be awarded as premiums**  
 31       **unless there is provided and made available from sources other**  
 32       **than the fund an amount for premiums equal to or in excess of that**  
 33       **allocated from the fund under this chapter. Funds approved and**  
 34       **designated by the department for purposes other than premium**  
 35       **awards are exempt from the matching fund requirements for**  
 36       **premium awards.**

37       **Sec. 5. An association or organization must be a nonprofit entity**  
 38       **to be eligible for grants under this chapter.**

39       **Sec. 6. The department may adopt rules under IC 4-22-2 to**  
 40       **carry out this chapter.**

41       **Chapter 5. Promotion of Foreign Markets for Agricultural**  
 42       **Products**

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1        **Sec. 1. The department has the responsibility for international**  
 2        **market promotion for Indiana agricultural products.**

3        **Sec. 2. Within the limit of funds specifically appropriated for**  
 4        **that purpose, the department may establish and maintain offices**  
 5        **in foreign countries for the purpose of promoting international**  
 6        **markets for Indiana agricultural products.**

7        **Sec. 3. Within the limit of funds specifically appropriated for**  
 8        **that purpose, the department may operate livestock export**  
 9        **inspection facilities meeting the requirements of the United States**  
 10       **Department of Agriculture for livestock inspection before export**  
 11       **shipments.**

12       **Sec. 4. The department may establish and collect fair and**  
 13       **reasonable livestock inspection fees related to the cost of**  
 14       **administering livestock export facilities.**

15       **Sec. 5. Livestock export facilities must be located in locations**  
 16       **that encourage the collection of livestock from Indiana and the**  
 17       **entire midwest area for exportation.**

18       **Sec. 6. (a) The livestock export facility administration fund is**  
 19       **established as a dedicated fund to be administered by the**  
 20       **department. All fees collected under section 4 of this chapter shall**  
 21       **be deposited in the fund. Money in the fund may be spent by the**  
 22       **department exclusively for the purposes described in this chapter.**  
 23       **Money in the fund does not revert to the state general fund at the**  
 24       **end of a state fiscal year. However, if the fund is abolished, its**  
 25       **contents revert to the state general fund.**

26       **(b) Money in the fund is appropriated to the department for the**  
 27       **purposes of this chapter.**

#### 28       **Chapter 6. Center for Value Added Research**

29       **Sec. 1. The department shall establish a center for value added**  
 30       **research to perform the following duties:**

31       **(1) Developing a strategic assessment of the Indiana**  
 32       **agricultural industries and establishing targeted priorities for**  
 33       **industry expansion.**

34       **(2) Developing recommendations for legislative and**  
 35       **administrative programs that will enhance economic**  
 36       **development in the targeted agricultural industries.**

37       **(3) Identify and prioritize research development and**  
 38       **educational needs for expanding value added opportunities in**  
 39       **Indiana.**

40       **(4) Establishing cooperative industry research and**  
 41       **development initiatives that lead to new agricultural industry**  
 42       **opportunities in Indiana.**

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(5) Serving as a resource for industry in the planning, promotion, and development of value added agricultural products and agricultural industry opportunities in Indiana, including product feasibility, market feasibility, economic feasibility, product development, product testing, and test marketing.

(6) Serving as a resource for industry and state government in attracting value added agricultural industry to Indiana.

(7) Developing private sector research funding and technology transfer programs commensurate with the state's targeted agricultural industry economic development objectives.

(8) Providing a forum for continuing dialogue between industry, government, and researchers in addressing the needs and opportunities for expanding the value added agricultural industry.

Sec. 2. In carrying out its duties under this chapter, the center for value added research shall cooperate with and may use the resources of:

- (1) Purdue University and other colleges and universities located in Indiana;
- (2) any other state or federal department or agency;
- (3) political subdivisions located in Indiana; and
- (4) interest groups representing agriculture, business, and industry in Indiana.

Sec. 3. To carry out the duties described in section 1 of this chapter, the department, acting for and on behalf of the center for value added research, may:

- (1) organize the center in the manner necessary to implement this chapter;
- (2) execute contractual agreements, including contracts for:
  - (A) the operation of the center;
  - (B) the performance of any of the duties described in section 1 of this chapter;
  - (C) the services of an executive director to serve as the chief operating officer of the center; and
  - (D) any other services necessary to carry out the duties described in section 1 of this chapter;
- (3) receive money from any source;
- (4) expend money for an activity appropriate to the purposes of this chapter;
- (5) execute agreements and cooperate with:
  - (A) any other state or federal department or agency;

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- (B) political subdivisions located in Indiana;
- (C) any private person or corporation; or
- (D) colleges and universities located in Indiana; and
- (6) subject to the approval of the budget agency, employ personnel as necessary for the efficient administration of this chapter.

Sec. 4. (a) The value added research fund is established for the purpose of providing money for the center for value added research and the department to carry out the duties specified under this chapter. The fund shall be administered by the department.

(b) The fund consists of money appropriated by the general assembly.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

#### Chapter 7. Aquaculture

Sec. 1. The department shall do the following:

- (1) Organize and develop an information and market research center for aquaculture.
- (2) Instigate the formation of a market and development plan for the aquaculture industry.
- (3) Encourage the development and growth of aquaculture.

Sec. 2. A person engaged in the business of aquaculture is entitled to the same consideration for a grant or loan program under the statutes or administrative rules of the state as a person engaged in other forms of farming.

#### Chapter 8. Inspection of Grain Moisture Testing Equipment

Sec. 1. The department shall at least one (1) time each year inspect and test all equipment used to test the moisture and the foreign material and dockage content of grain purchased, sold, or exchanged in Indiana.

Sec. 2. Each piece of equipment that is tested and found to be true in accordance with rules or standards prescribed by the National Institute of Standards and Technology, the United States Department of Agriculture, and the department must bear a seal issued by the department to that effect with the date of inspection and expiration date.

Sec. 3. (a) The department shall charge a fee of ten dollars (\$10) for each moisture testing device inspected from each inspection site

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under this chapter.

(b) All fees collected under this chapter shall be deposited in the state general fund.

Sec. 4. There is annually appropriated to the department an amount sufficient to carry out this chapter for the use of the department in carrying out this chapter.

Sec. 5. The department may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 6. The department may:

- (1) employ such persons;
- (2) make such expenditures;
- (3) require such reports and records;
- (4) make such investigations; and
- (5) take such other action;

as the department considers necessary or suitable for the proper administration of this chapter.

Sec. 7. A copy of this chapter and all rules adopted under this chapter shall be posted in a conspicuous manner and placed at every commercial grain buying site.

Sec. 8. A person who recklessly uses equipment:

- (1) to ascertain the moisture and the foreign material and dockage content of grain in the process of commercial buying or selling of grain; and
- (2) that does not bear the seal required by section 2 of this chapter;

commits a Class B misdemeanor.

SECTION 24. IC 24-9-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A creditor may not make a high cost home loan without first providing the borrower information to facilitate contact with a nonprofit counseling agency certified by:

- (1) the United States Department of Housing and Urban Development; or
- (2) the department of commerce under ~~IC 4-4-3-8(b)(15);~~  
**IC 4-4-3-8(b)(13);**

at the same time as the good faith estimates are provided to the borrower in accordance with the requirements of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 4-4-3.2; IC 4-4-3.3; IC 4-4-3.4; IC 4-4-3.8; IC 4-4-27.

SECTION 26. [EFFECTIVE JULY 1, 2005] (a) **IC 6-1.1-10-44 and**

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- 1 IC 6-1.1-11-4.5, both as added by this act, apply to property taxes
- 2 first due and payable after December 31, 2007.
- 3 (b) IC 6-3-2-20, IC 6-3-2-21, and IC 6-3-2-22, all as added by
- 4 this act, apply to taxable years beginning after December 31, 2006.

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